



February 14, 2005

Hon. John Cornyn
United States Senate
517 Hart Senate Office Building
Washington, DC 20510

Hon. Patrick Leahy
United States Senate
433 Russell Senate Office Building
Washington, DC 20510

Re: Pass the Cornyn-Leahy OPEN Government Act of 2005

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ADVISORY COUNCIL

RICHARD ZACKS
TREASURER

Dear Senators Cornyn and Leahy:

On behalf of the American Civil Liberties Union and its more than 400,000 members, we are pleased to endorse the Openness Promotes Effectiveness in our National Government Act of 2005, the "OPEN Government Act of 2005."

As the Supreme Court has made clear, "disclosure, not secrecy, is the dominant objective of the Act," *Department of the Air Force v. Rose*, 425 U.S. 352 (1976). Nevertheless, secrecy, not openness, all too often seems to be the dominant trend of agencies in recent times.

The OPEN Government Act includes a series of much-needed corrections to policies that have eroded the promise of the Freedom of Information Act (FOIA). These include ensuring requesters will have timely information on the status of their requests, enforceable time limits for agencies to respond to requests, news media status rules that recognize the reality of freelance journalists and the Internet, and strong incentives – including both carrots and sticks – for agency employees to improve FOIA compliance. The OPEN Government Act also includes a much needed review of the new exemption in the Homeland Security Act for critical infrastructure information.

James Madison warned against "a popular Government without popular information," saying that "a people who mean to be their own Governors, must arm themselves with the power knowledge gives." We strongly urge passage of the OPEN Government Act of 2005 to help restore to the people some of that power.

Sincerely,

Laura W. Murphy,
Director, Washington Legislative Office

Timothy H. Edgar,
Legislative Counsel